

Wetlands Bureau Decision Report

Decisions Taken
04/12/2004 to 04/16/2004

DISCLAIMER:

This document is published for information purposes only and does not constitute an authorization to conduct work. Work in jurisdiction may not commence until the applicant has received a posting permit.

Decisions are subject to appeal, and are reviewed by the federal agencies for compliance with Section 404 of the Federal Clean Water Act.

APPEAL:

I. Any affected party may ask for reconsideration of a permit decision in accordance with RSA 482-A:10,II within 20 days of the Department's issuance of a decision. Requests for reconsideration should:

- 1) describe in detail each ground for complaint. Only grounds set forth in the request for reconsideration can be considered at subsequent levels of appeal;
- 2) provide new evidence or information to support the requested action;
- 3) Parties other than the applicant, the town, or contiguous abutters must explain why they believe they are affected; and
- 4) Be mailed to the DES Wetlands Bureau, PO Box 95, Concord, NH 03302-0095.

II. An appeal of a decision of the department after reconsideration may be filed with the Wetlands Council in accordance with RSA 482-A:10, IV within 30 days of the department's decision. Filing of the appeal must:

- 1) be made by certified mail to Brian Fowler, Chairperson, Wetlands Council, PO Box 95, Concord, NH 03302-0095 (a copy should also be sent to the DES Wetlands Bureau);
- 2) contain a detailed description of the land involved in the department's decision; and
- 3) set forth every ground upon which it is claimed that the department's decision is unlawful or unreasonable.

MAJOR IMPACT PROJECT

2001-02487 JASAND INC
STRATHAM Unnamed Wetland

Requested Action:

Change name to Eric Katz of Chisholm Farm Development, LLC to fill a total of 5,100 sq. ft. of wetland at 4 locations for the construction of access roadways, installation of culverts, and installation of a 3 ft. x 6 ft. box culvert at two locations for the construction of a 42-lot residential development on 115 acres of land. Approve as mitigation, a conservation easement to preserve 84.7 acres of undisturbed forest consisting of approximately 30 acres of wetland and 55 acres of upland.

APPROVE NAME CHANGE:

Change name to Eric Katz of Chisholm Farm Development, LLC to fill a total of 5,100 sq. ft. of wetland at 4 locations for the construction of access roadways, installation of culverts, and installation of a 3 ft. x 6 ft. box culvert at two locations for the construction of a 42-lot residential development on 115 acres of land. Approve as mitigation, a conservation easement to preserve 84.7 acres of undisturbed forest consisting of approximately 30 acres of wetland and 55 acres of upland.

2002-01135 BRADDOCK, JOHN C AND CAROL A
SALEM Unnamed Wetland

Requested Action:

Approve name change to: Kensington Place of Salem, LLC, 98 Elm St., Salisbury, Ma 01952 per request received 4/15/04.

Conservation Commission/Staff Comments:

In a letter to the DES Wetlands Bureau dated June 6, 2002 the Salem Conservation Commission recommended approval of the application with the following conditions: 1. No disturbance within the Town's 100-foot Prime Wetland buffer; 2. Site drainage must discharge to existing culvert; 3. A grate must be installed at the outlet of the culvert which discharges to the Spicket River to prevent animal activity; 4. Improvements must be made to the dangerous curve on Cluff Road; 5. A 7.5-acre parcel must be transferred to the Town of Salem; 6. A conservation easement must be recorded on the 100-foot Prime Wetland buffer; 7. Pedestrian access must be provided to the existing trail on Lot 719; and 8. Public access must be provided to the conservation easement area.

In a letter to the DES Wetlands Bureau dated September 5, 2002, the Salem Conservation Commission recommended approval of the modified mitigation plan.

Inspection Date: 04/11/2002 by Christian P Williams

APPROVE NAME CHANGE:

Fill approximately 6,185 square feet of scrub-shrub wetlands to construct a senior housing complex, and fill approximately 1,096 square feet of forested wetlands to make safety-related improvements to Cluff Road and construct a roadway to access the senior housing complex, adjacent to Salem Prime Wetland #1.

With Conditions:

1. All work shall be in accordance with the NHDES Wetland Permit Plans (Sheets 1 & 2 of 3) by TFMoran Inc. dated April 22, 2002 and revised December 23, 2002, as received by the Department on January 10, 2003.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
3. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction.
4. The 100-foot non-disturbance buffer around the designated prime wetlands shall be left in its natural state.
5. A professional engineer shall inspect the project to insure compliance with approved plans and permit conditions.

6. This permit is contingent on approval by the DES Site Specific Program.
7. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
8. Appropriate erosion, siltation, and turbidity controls shall be installed prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
9. Work shall be conducted during low flow.
10. Proper headwalls shall be constructed within seven days of culvert installation.
11. Stone aprons shall be installed at culvert outlets to dissipate flow velocities and prevent scour and erosion.
12. Dredged material shall be placed out of any area that is within the jurisdiction of the DES Wetlands Bureau.
13. This permit is contingent upon the execution of a conservation easement on 3.60 acres as depicted on the NHDES Wetland Permit Plans (Sheets 1 & 2 of 3) by TFMoran Inc. dated April 22, 2002 and revised December 23, 2002, as received by the Department on January 10, 2003.
14. The conservation easement to be placed on the preservation areas shall be written to run with the land, and both existing and future property owners shall be subject to this easement.
15. The plan noting the conservation easement with a copy of the final easement language shall be recorded with the Registry of Deeds Office for each appropriate lot. A copy of the recording from the County Registry of Deeds Office shall be submitted to the DES Wetlands Bureau prior to construction.
16. The conservation easement area shall be surveyed by a licensed surveyor, and marked by monuments [stakes] prior to construction.
17. Signs to indicate the location of and restrictions on the area shall be posted every 150 feet along the boundary of the conservation area prior to construction.
18. There shall be no removal of the existing vegetative undergrowth within the easement area and the placement of fill, construction of structures, and storage of vehicles or hazardous materials is prohibited.
19. Activities in contravention of the conservation easement shall be construed as a violation of RSA 482-A, and those activities shall be subject to the enforcement powers of the Department of Environmental Services.
20. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
21. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
22. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
23. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
24. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This permit transfer is issued in accordance with NH Administrative Rule Wt 502.03(b).

2003-00586 HARE, DOROTHY/J PETER
MOULTONBOROUGH Lake Winnepesaukee

Conservation Commission/Staff Comments:

Con. Com. did not have appropriate plans to make a determination.

APPROVE NAME CHANGE:

Approve name change to: Tom Murphy, 104 High Ridge Rd., Boxford, Ma 01921 per request received 3/8/04. This action requires G&C approval.

With Conditions:

1. All work shall be in accordance with plans by Watermark Marine Construction dated March 10, 2003, revised May 27, 2003, as received by the Department on July 24, 2003.
2. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the

registered permit shall be submitted to the DES Wetlands Bureau prior to installation.

3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.
5. Work authorized shall be carried out such that discharges shall be avoided in spawning or nursery areas during spawning seasons, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
6. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding and nesting areas shall be avoided.
7. This shall be the only structure on this water frontage and all portions of the dock shall be at least 20 ft from abutting property lines or the imaginary extension of those lines into the water.
8. Seasonal pier shall be removed from the lake for the non-boating season.
9. No portion of the pier shall extend more than 55 feet from the shoreline at full lake elevation.
10. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement action or revocation action if the DES later determines that these "existing structures" were not previously permitted or grandfathered.
11. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This permit transfer is issued in accordance with NH Administrative Rule Wt 502.03(b).

-Send to Governor and Executive Council-

2003-02479 ALLEN, MARK & MARJORI
SANDWICH Squam Lake

Requested Action:

Construct a 6 ft by 40 seasonal dock connected to an existing 6 ft by 40 ft seasonal dock by a 6 ft by 10 ft walkway, construct a third 6 ft by 40 ft seasonal dock 25 ft to the south of the above structure on 313 ft of frontage on Squam lake, Sandwich.

Conservation Commission/Staff Comments:

No Con Com comments by 12/09/03

APPROVE PERMIT:

Construct a 6 ft by 40 seasonal dock connected to an existing 6 ft by 40 ft seasonal dock by a 6 ft by 10 ft walkway, construct a third 6 ft by 40 ft seasonal dock 25 ft to the south of the above structure on 313 ft of frontage on Squam lake, Sandwich.

With Conditions:

1. All work shall be in accordance with plans as received by the Department on November 3, 2003.
2. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to installation.
3. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement action or revocation action if the DES later determines that these "existing structures" were not previously permitted or grandfathered.
4. These shall be the only structures on this water frontage and all portions of the structures shall be at least 20 ft from abutting property lines or the imaginary extension of those lines into the water.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Seasonal piers shall be removed from the lake for the non-boating season.
7. No portion of the piers shall extend more than 40 feet from the shoreline at full lake elevation.
8. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This project is classified as a major project per Rule Wt 303.02(d), construction of a major docking facility.

2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
5. The applicant has an average of 313 feet of frontage along Squam Lake.
6. A maximum of 5 slips may be permitted on this frontage per Rule Wt 402.14, Frontage Over 75'.
7. The proposed docking facility will provide 5 slips as defined per Rule Wt 101.07, Boatslip, and therefore meets Rule Wt 402.14.
8. Public hearing is waived based on field inspection, by NH DES staff, on December 12, 2003, with the finding that the project impacts will not significantly impair the resources of Squam Lake.

-Send to Governor and Executive Council-

MINOR IMPACT PROJECT

2003-02218 MULCAHY, EDMUND & DAVID
RYE Unnamed Wetland

Requested Action:

Fill 6,500 square feet of a previously disturbed freshwater wetland for the construction of a driveway access to buildable uplands for a 3-lot single-family residence subdivision, and impact 454 square feet of the developed upland tidal buffer zone for driveway construction and the installation of an 8-inch water line and hydrant. Project impacts total 6,954 square feet.

Inspection Date: 04/07/2004 by Christina Altimari

APPROVE PERMIT:

Fill 6,500 square feet of a previously disturbed freshwater wetland for the construction of a driveway access to buildable uplands for a 3-lot single-family residence subdivision, and impact 454 square feet of the developed upland tidal buffer zone for driveway construction and the installation of an 8-inch water line and hydrant. Project impacts total 6,954 square feet.

With Conditions:

1. All work shall be in accordance with plans by Ambit Engineering, Inc. dated January 2003, with revisions dated November 21, 2003, as received by the Department on December 11, 2003.
2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. Coastal staff shall be notified in writing prior to commencement of work and upon its completion.
4. This permit is contingent on approval by the DES Subsurface Systems Bureau.
5. The permittee shall coordinate with the NH Division of Historic Resources to assess and mitigate the project's effect on historic resources.
6. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
7. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
8. Appropriate siltation, erosion, and turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(h), projects involving less than 20,000 square feet of alteration in non-tidal wetlands.

2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. DES Staff conducted a field inspection of the proposed project on April 7, 2004.
5. Field inspection finds that the filling of 6,500 square feet of nontidal wetlands will be within the limits of a historic quarry access road, and that the amount ledge, as well as the extreme and immediate changes in the site's topography, prevent the access road from being located in the uplands without potential serious risks to safety.
6. Field inspection also finds that the wetlands onsite are dominated by *Phragmites australis* and contain a significant amount of trash inclusive of abandoned cars, tires, etc, which the applicant will remove prior to site development.
7. NH Natural Heritage Inventory (NHNHI) has record of one state threatened plant species within the vicinity of the project, Loesel's Twayblade (*Liparis loeselii*).
8. DES finds that the NHNHI identified plant species is a historic reference first seen in 1968. Since then, Sagamore Creek has been dredged and the spoils placed on the abandoned quarry site. Therefore, DES field inspection finds that the property is no longer a potential site for the Loesel's Twayblade (*Liparis loeselii*).
9. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

2003-02307 DUBREVIL, RAYMOND
LANCASTER Unnamed Stream

Requested Action:

Dredge and fill approximately 200 sq. ft. within the embankments and flow channel of a perennial stream to replace an 8 ft. wide deteriorated bridge of timber construction with 18 linear feet of 4 ft. dia. culvert pipe with rock headwalls to support a 10 ft. wide driveway and cover with 1 ft. of crushed gravel.

APPROVE PERMIT:

Dredge and fill approximately 200 sq. ft. within the embankments and flow channel of a perennial stream to replace an 8 ft. wide deteriorated bridge of timber construction with 18 linear feet of 4 ft. dia. culvert pipe with rock headwalls to support a 10 ft. wide driveway and cover with 1 ft. of crushed gravel.

With Conditions:

1. All work shall be in accordance with plans by Applicant dated 1-5-04 & 4-5-04, as received by the Department on January 05, 2004 & April 07, 2004 respectively.
2. There shall be no further alteration of wetlands on this property for lot development, driveways, culverts, for septic setback or other construction activities.
3. Proper headwalls shall be constructed within seven days of culvert installation.
4. Culvert outlets shall be properly rip rapped.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Work shall be done during low flow.

With Findings:

1. This is a Minor impact Project per NH Code of Administrative Rule Wt 303.03(1), projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial stream or river channel or its banks.
2. This project is approved on reconsideration by reducing the primary and potential secondary impacts which might be associated with the project as originally proposed.

Requested Action:

Applicant requests reconsideration and proposes to shorten requested culvert to be installed by 2 feet to 18 linear feet with proper headwalls and bank stabilization.

APPROVE RECONSIDERATION:

Approve request for reconsideration and issue permit to: Dredge and fill approximately 200 sq. ft. within the embankments and flow channel of a perennial stream to replace an 8 ft. wide deteriorated bridge of timber construction with 18 linear feet of 4 ft. dia. culvert pipe with rock headwalls to support a 10 ft. wide driveway and cover with 1 ft. of crushed gravel.

With Conditions:

1. All work shall be in accordance with plans by Applicant dated 1-5-04 & 4-5-04, as received by the Department on January 05, 2004 & April 07, 2004 respectively.
2. There shall be no further alteration of wetlands on this property for lot development, driveways, culverts, for septic setback or other construction activities.
3. Proper headwalls shall be constructed within seven days of culvert installation.
4. Culvert outlets shall be properly rip rapped.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Work shall be done during low flow.

With Findings:

1. This is a Minor impact Project per NH Code of Administrative Rule Wt 303.03(1), projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial stream or river channel or its banks.
2. This project is approved on reconsideration by reducing the primary and potential secondary impacts which might be associated with the project as originally proposed.

**2003-02617 DAVIS, ROBERT, BEA, RICK & RANDY
JACKSON Unnamed Wetland**

Requested Action:

Dredge and fill 6,946 square feet of palustrine forested, scrub shrub and emergent wetlands and cross a perennial stream to provide access to one lot of a 2-Lot subdivision

Conservation Commission/Staff Comments:

No comments submitted from the Conservation Commission

APPROVE PERMIT:

Dredge and fill 6,946 square feet of palustrine forested, scrub shrub and emergent wetlands and cross a perennial stream to provide access to one lot of a 2-Lot subdivision

With Conditions:

1. All work shall be in accordance with plans by Ammonoosuc Survey Company, Inc. dated March 15, 2004, as received by the Department on March 22, 2004, and project and construction details by B.H. Keith Associates dated November 17, 2003, as received by the Department on November 20, 2003.
2. This permit is contingent on approval by the DES Subsurface Systems Bureau.
3. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
4. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #3 of this approval.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and shall remain until the area is stabilized.
6. Work shall be done during low flow.
7. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
8. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

9. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(h), alteration of less than 20,000 sq ft of nontidal jurisdictional wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

2004-00115 RINDGE, TOWN OF
RINDGE Unnamed Wetland

Requested Action:

Dredge and fill approximately 3,063 square feet of palustrine scrub shrub wetlands to expand the Town of Rindge highway garage and install appropriate stormwater controls associated with lot development

APPROVE PERMIT:

Dredge and fill approximately 3,063 square feet of palustrine scrub shrub wetlands to expand the Town of Rindge highway garage and install appropriate stormwater controls associated with lot development

With Conditions:

1. All work shall be in accordance with plans by CMA Engineers dated March 2004, as received by the Department on March 17, 2004.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
5. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
6. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This project proposes to impact 3,063 sq ft of jurisdictional wetlands for highway garage expansion and is therefore a minor impact project per Administrative Rule Wt 303.03(h), alteration of less than 20,000 sq ft of nontidal wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

2004-00195 TURGEON FAMILY TRUST
SOMERSWORTH Unnamed Wetland

Requested Action:

Dredge and fill approximately 2,950 square feet of wet meadow wetlands to construct two driveways to provide access to three lots of a 10-lot residential subdivision on approximately 22.2 acres. Temporarily impact approximately 14,110 square feet of wet meadow wetlands to install a sewer main to provide municipal sewer service to the 10-lot residential subdivision.

Conservation Commission/Staff Comments:

In a report received by the DES Wetlands Bureau on February 13, 2004 the Somersworth Conservation Commission indicated that it has no objection to the issuance of a permit for the project.

APPROVE PERMIT:

Dredge and fill approximately 2,950 square feet of wet meadow wetlands to construct two driveways to provide access to three lots of a 10-lot residential subdivision on approximately 22.2 acres. Temporarily impact approximately 14,110 square feet of wet meadow wetlands to install a sewer main to provide municipal sewer service to the 10-lot residential subdivision.

With Conditions:

1. All work shall be in accordance with the following plans by Trittech Engineering Corporation:
 - a) The Dredge and Fill Plan (Sheet DF-2) dated February 2, 2004, as received by the Department on April 12, 2004; and
 - b) The Dredge and Fill Plan (Sheet DF-3) dated February 2, 2004 and revised April 7, 2004, as received by the Department on April 12, 2004.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback, except as necessary for sewer line extension.
3. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #2 of this approval.
4. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction.
5. Work shall be conducted during low flow conditions.
6. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
7. Appropriate erosion, siltation, and turbidity controls shall be installed prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
8. Dredged material not used to backfill the sewer line trench shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
9. Installation of the sewer line shall be inspected by a certified wetland scientist, erosion control specialist, or professional engineer to insure that appropriate protective measures are properly implemented, including those outlined in the plans and documents supporting this permit application and the conditions of this authorization.
10. Topsoil in wetlands shall be stripped and segregated from subsoil during sewer line installation. Wetland topsoils shall be stockpiled separately from subsoils and shall be restored following backfill of the sewer line trench.
11. Timber or natural fiber mats, or corduroy shall be used, where appropriate, to stabilize the temporary construction easement in wetlands. These materials shall be entirely removed from wetlands during restoration.
12. Temporary wetland impact areas shall be regraded to original contours, seeded and stabilized immediately following completion of work.
13. Proper headwalls shall be constructed within seven days of culvert installation.
14. Stone aprons shall be installed at culvert outlets, where appropriate, to dissipate flow velocities and prevent scour and erosion.
15. Work shall be conducted in a manner so as to minimize turbidity and sedimentation to surface waters and wetlands.
16. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
17. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
18. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
19. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control

Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. The project is categorized as a Minor Impact Project, per Administrative Rule Wt 303.03(h), as the project involves less than 20,000 square feet of alteration in nontidal wetlands.
2. More than 80% of proposed wetlands impacts are temporary in nature associated with installation of a municipal sewer line.
3. The applicant has reduced permanent wetlands impacts by incorporating a common driveway into the project design.
4. In a report received by the DES Wetlands Bureau on February 13, 2004 the Somersworth Conservation Commission indicated that it had no objection to the issuance of a permit for the project.
5. The need for the proposed jurisdictional impacts has been demonstrated by the applicant per Rule Wt 302.01.
6. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the Department's jurisdiction, in accordance with Rule Wt 302.03.
7. The applicant has demonstrated by plan and example that each factor listed in Rule Wt 302.04(a), Requirements for Application Evaluation, has been considered in the design of the project.
8. The applicant has addressed the subdivision plan requirements of Rule Wt 304.09(a).

2004-00199 RALO ENTERPRISES LLC
LACONIA Lake Winnepesaukee

Requested Action:

Dredge and fill 748 square feet for access in the subdivision of 62.2 acres into 70 residential lots further described as follows:
Temporarily impact 136 square feet for installation of a drain line from new stormwater detention basin; and permanently impact 612 square feet along 103 linear feet of intermittent stream channel installation of a 24-inch x 103 foot culvert for roadway construction.

Conservation Commission/Staff Comments:

The conservation would like to recommend: 1. Project timing allows for the installation of all temporary erosion controls; and 2. Wetlands and wetland buffer be labeled prior to construction.

APPROVE PERMIT:

Dredge and fill 748 square feet for access in the subdivision of 62.2 acres into 70 residential lots further described as follows:
Temporarily impact 136 square feet for installation of a drain line from new stormwater detention basin; and permanently impact 612 square feet along 103 linear feet of intermittent stream channel installation of a 24-inch x 103 foot culvert for roadway construction.

With Conditions:

1. All work shall be in accordance with plans by Fluet Engineering Associates PC dated December 3, 2003, and as received by the Department on February 5, 2004.
2. This permit is contingent on approval by the DES Site Specific Program.
3. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
4. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
5. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #4 of this approval.
6. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau.
7. At least 48 hours prior to the start of construction, a pre-construction meeting shall be held with NHDES Land Resources Management Program staff at the project site or at the DES Office in Concord, NH to review the conditions of this wetlands permit and the NHDES Site Specific Permit. It shall be the responsibility of the permittee to schedule the pre-construction meeting, and the meeting shall be attended by the permittee, his/her professional engineer(s), wetlands scientist(s), and the contractor(s) responsible for performing the work.
8. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
9. Work shall be done in dry conditions.

10. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.
11. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
12. Proper headwalls shall be constructed within seven days of culvert installation.
13. All material removed during work activities shall be placed out of DES's jurisdiction.
14. Area of temporary impact shall be regraded to original contours following completion of work.
15. Mulch within the restoration area shall be straw.
16. Seed mix within the restoration area shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturers specifications. The receipt and contents of the wetland mix shall be supplied to NHDES within 10 days of application.
17. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
18. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
19. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
20. Silt fencing must be removed once the area is stabilized.
21. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
22. A post-construction report documenting the status of the restored jurisdictional area, including photographs shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(1), projects that alter the course of or disturb less than 200 linear feet of an intermittent or perennial nontidal stream or river channel or its banks and do not meet the criteria for minimum impact under Wt 303.04(n).
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

2004-00426 CROWN RIDGE CONDO ASSOC., C/O STEPHEN BELLER
NORTH CONWAY Mill Brook

Requested Action:

Impact a total of 3,200 sq. ft. in three perennial stream locations including: clear debris lodged in culvert inlet impacting 150 sq. ft. of Mill Brook; install two 40' x 6'-1" x 4'-7" pipe arch culverts and associated rip rap stabilization in road washout impacting 1,500 sq. ft.; remove damaged 15" culvert and replace with five 40' x 58" x 36" pipe arches and associated rip rap stabilization in road washout impacting 1,500 sq. ft.

Conservation Commission/Staff Comments:
Con. Com. did not report

APPROVE PERMIT:

Impact a total of 3,200 sq. ft. in three perennial stream locations including: clear debris lodged in culvert inlet impacting 150 sq. ft. of Mill Brook; install two 40' x 6'-1" x 4'-7" pipe arch culverts and associated rip rap stabilization in road washout impacting 1,500 sq. ft.; remove damaged 15" culvert and replace with five 40' x 58" x 36" pipe arches and associated rip rap stabilization in road washout impacting 1,500 sq. ft.

With Conditions:

1. All work shall be in accordance with plans by White Mountain Survey Co. Inc. dated March 2, 2004, as received by the Department on March 16, 2004.
2. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Appropriate turbidity controls shall be installed prior to construction, shall be maintained during construction such that no turbidity escapes the immediate dredge area, and shall remain until suspended particles have settled and the water at the work site has returned to normal clarity.
5. Work shall be done during low flow.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(l), alteration of less than 200 linear feet of perennial streams exceeding the criteria for minimum impact projects according to Wt 303.04 (n).
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.

MINIMUM IMPACT PROJECT

2003-00299 MCLAUGHLIN, J MARTIN
RYE Rye Harbor / Atlantic Ocean

Requested Action:

Repair storm damage along 600 square feet of eroded roadway and seawall on Harbor Road between Rye Tax Map 9.2 / Lots 6&7.

Conservation Commission/Staff Comments:

Digitized from tax map.

APPROVE AFTER THE FACT:

Repair storm damage along 600 square feet of eroded roadway and seawall on Harbor Road between Rye Tax Map 9.2 / Lots 6&7.

With Conditions:

1. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(b), projects in developed upland areas within 100 feet of the highest observable tide line.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01, as the repair work was needed to maintain the integrity of the road, which was threatened due to a storm.
3. An emergency authorization was issued for this work on February 21, 2003.

2003-01433 JACKSON, TOWN OF
JACKSON Wildcat River

Requested Action:

Stabilize approximately 25 linear feet (216 square feet) of the bank along the Wildcat River by installing a base log and boulder, reshaping the bank and by planting 70 native shrubs to prevent further bank erosion.

Conservation Commission/Staff Comments:

*In a letter dated 7/21/03, The Jackson Conservation Commission stated that they wish to intervene on the application and that the project is within the boundaries of the National Wild & Scenic River designation.

*In a letter dated 8/13/03, The Jackson Conservation Commission stated that they support the need for the project to prevent bank erosion.

Inspection Date: 12/19/2003 by Craig D Rennie

APPROVE PERMIT:

Stabilize approximately 25 linear feet (216 square feet) of the bank along the Wildcat River by installing a base log and boulder, reshaping the bank and by planting 70 native shrubs to prevent further bank erosion.

With Conditions:

1. All work shall be in accordance with plans by USDA Natural Resources Conservation Service dated 1/16/04, as received by the Department on 3/19/04.
2. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.
3. The applicant shall notify in writing NHDES Wetlands Bureau, the USDA Forest Service and the Jackson Conservation Commission of their intention to begin construction no less than five (5) business days prior to the commencement of construction.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Dredged materials and temporary stockpiles shall be located outside of DES Wetlands Bureau jurisdiction.
6. Work shall be done during low flow conditions and between the months of May through September.
7. Construction equipment shall not be located within surface waters.
8. Work shall be conducted in a manner that minimizes turbidity and sedimentation to surface waters and wetlands.
9. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
10. The proposed shrub planting area shall have at least 75% successful establishment of native vegetation after two (2) growing seasons, or it shall be replanted and re-established until a stable vegetated bank is replicated in a manner satisfactory to the DES Wetlands Bureau.
11. A post-construction report documenting the status of the bank stabilization shall be submitted to the Wetlands Bureau within six (6) weeks of the completion of construction. The report shall contain photographic documentation of the area.
12. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. The project is classified as a Minimum Impact Project per NH Administrative Rule Wt 303.04(o), as the project will have minimal environmental impact.
2. The project is necessary to stabilize the bank of the Wildcat River adjacent to a town owned pond and berm.
3. Original plans by the town proposed to install rip rap within the bank; however, because the Wildcat River is federally designated as a Wild and Scenic River, the plans have been revised by NRCS to stabilize the stream bank with vegetative methods and bioengineered techniques to minimize overall impacts, encourage long-term stability of the stream bank, and to maintain the free-flowing condition of the river.
4. The Town of Jackson Conservation Commission supports the project to stabilize the stream bank through vegetative methods.
5. DES finds that the project will benefit the river by encouraging long-term stabilization through vegetative methods; therefore, the project is deemed minimum impact according to Wt 303.04(o).

2003-01876 BOUDREAU, LOUIS & SUZANNE
GILFORD Lake Winnepesaukee

Requested Action:

Applicant requests reconsideration of denial of 27 ft canopy.

Conservation Commission/Staff Comments:

New revised canopy policy makes project approvable.

APPROVE RECONSIDERATION:

Re-set rocks along an existing 77 linear ft, "dogleg," breakwater with a 6 ft gap at the shoreline, and a 4 ft x 30 ft cantilevered pier accessed by a 4 ft x 33 ft walkway connected to a 2 ft x 30 ft center piling pier, with an wharf along the shoreline of varying width, in an "E" shape, and install a 27 ft x 18 ft seasonal canopy over 2 slips on an average of 188 ft of frontage on Lake Winnepesaukee.

With Conditions:

1. All work shall be in accordance with plans by Watermark Marine Construction dated August 15, 2003, revised on April 10, 2004, as received by the Department on April 14, 2004.
2. This permit shall not be effective until it has been recorded with the county Registry of Deeds office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction.
3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
5. Work authorized shall be carried out such that discharges shall be avoided in spawning or nursery areas during spawning seasons, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
6. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding and nesting areas shall be avoided.
7. Repair of breakwater shall maintain existing size, location and configuration.
8. All removed material and construction debris shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
9. Existing rocks which have fallen shall be used for repair. No Additional Rocks.
10. Canopies shall be of seasonal construction type with a flexible fabric cover which shall be removed for the non-boating season.
11. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement action or revocation action if the DES later determines that these "existing structures" were not previously permitted or grandfathered.
12. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:10,I, Appeals, "[a]ny person aggrieved by a decision made by the department under RSA 482-A:3 or subject to an order of the department under RSA 482-A:6 may apply for reconsideration by the department."
2. In accordance with RSA 482-A:3, Excavating and Dredging Permits, "[n]o person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp, or in an adjacent to any waters of the state without a permit from the department."
3. In accordance with RSA 482-A:2,VIII(a), Definitions, "[b]oat slip, on water bodies over 10,000 acres, means a volume of water 25 feet long, 8 feet wide, and 3 feet deep as measured at normal high water and located adjacent to a structure to which a watercraft may be secured."
4. In accordance with Rule Wt 101.12, Canopy, "means a seasonal open structure with a flexible roof not able to withstand the expected snow load and without side walls, which is erected to shelter watercraft during the boating season."
5. In accordance with Rule Wt 302.03, Avoidance and Minimization, "[t]he applicant shall submit a statement describing the impact of the proposed project design and provide evidence which demonstrates that his proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction."
6. In accordance with Rule Wt 302.04(a)(1), Requirements for Application Evaluation, the applicant shall demonstrate by plan and example the need for the proposed project.

7. On July 17, 2003, the Wetlands Bureau issued a policy statement clarifying the dimensions of a canopy to be consistent with the size of a boatslip as defined by RSA 482-A. The limited length is based on the requirements of Rules Wt 302.03 and 302.04(a)(1).
8. On March 11, 2004, the Wetlands Bureau revised the canopy policy to be consistent with added dimensions for navigational space, allowing canopies not to exceed 14 feet in width, 30 feet in length, and 20 feet in height above the normal high water elevation.
9. This project is classified as a minimum impact project per Rule Wt 303.04(o), deemed minimum impact by the department based on the degree of environmental impact.

Grounds for Reconsideration

10. The appellant maintains that appropriate precedent exists to allow canopies larger than 25 ft.
11. The Wetlands Bureau revised the formal canopy policy on March 11, 2004, to allow canopies with dimensions not to exceed 14 feet in width, 30 feet in length, and 20 feet in height.
12. The applicant submitted the outstanding filing fee on April 14, 2004.

Findings of Fact

13. On February 3, 2004, the Wetlands Bureau issued a denial of an application for surface water impacts, on the property identified as Gilford tax Map 252, Lot 2, for the installation of a seasonal canopy over a previously permitted boatslip.
14. The applicant has submitted a timely request for reconsideration, received by the Wetlands Bureau on February 23, 2004.
15. The Wetlands Bureau revised the stated canopy policy on March 11, 2004 to reflect navigational space.
16. The application meets the requirements of Wt 302.04(b), and will therefore be approvable under the revised canopy policy.

Requested Action:

Applicant requests reconsideration of denial of 27 ft canopy.

DENY RECONSIDERATION:

Install a 27 ft x 18 ft seasonal canopy over 2 slips provided by an existing 77 linear ft, "dogleg," breakwater, with a 6 ft gap at the shoreline, and a 4 ft x 30 ft cantilevered pier accessed by a 4 ft x 33 ft walkway connected to a 2 ft x 30 ft center piling pier, with an wharf along the shoreline of varying width, in an "E" shape, on an average of 188 ft of frontage on Lake Winnepesaukee.

With Findings:

Standards for Approval

1. In accordance with RSA 482-A:10,I, Appeals, "[a]ny person aggrieved by a decision made by the department under RSA 482-A:3 or subject to an order of the department under RSA 482-A:6 may apply for reconsideration by the department."
2. In accordance with RSA 482-A:3, Excavating and Dredging Permits, "[n]o person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp, or in an adjacent to any waters of the state without a permit from the department."
3. In accordance with RSA 482-A:2,VIII(a), Definitions, "[b]oat slip, on water bodies over 10,000 acres, means a volume of water 25 feet long, 8 feet wide, and 3 feet deep as measured at normal high water and located adjacent to a structure to which a watercraft may be secured."
4. In accordance with Rule Wt 101.12, Canopy, "means a seasonal open structure with a flexible roof not able to withstand the expected snow load and without side walls, which is erected to shelter watercraft during the boating season."
5. In accordance with Rule Wt 302.03, Avoidance and Minimization, "[t]he applicant shall submit a statement describing the impact of the proposed project design and provide evidence which demonstrates that his proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction."
6. In accordance with Rule Wt 302.04(a)(1), Requirements for Application Evaluation, the applicant shall demonstrate by plan and example the need for the proposed project.
7. On July 17, 2003, the Wetlands Bureau issued a policy statement clarifying the dimensions of a canopy to be consistent with the size of a boatslip as defined by RSA 482-A. The limited length is based on the requirements of Rules Wt 302.03 and 302.04(a)(1).
8. In accordance with Rule Wt 302.04(d)(1), Requirements for Application Evaluation, the Department shall not grant a permit if there is a practicable alternative that would have a less adverse impact on the area and environments under the Department's jurisdiction.

9. This project is classified as a minimum impact project per Rule Wt 303.04(o), deemed minimum impact by the department based on the degree of environmental impact.

Grounds for Reconsideration

10. The appellant maintains that the department canopy policy is unfair and unlawful without proper rulemaking procedure.
11. The appellant maintains that appropriate precedent exists to allow canopies larger than 25 ft.
12. The appellant maintains that the Wetlands Bureau is inconsistent in the classification of seasonal canopies.
13. The appellant states that there are no additional impacts to surface waters associated with this project.
14. The appellant states that the added length is necessary to properly protect a boat from the elements.
15. The appellant states that there is no administrative rule relating canopies to the size of boatslips.
16. The appellant maintains that there is appropriate legal channels to implement rulemaking which includes public input and legislative review.
17. The appellant cites a 'Request for More Information' dated January 20, 2004, where a 37 ft long canopy was permitted on February 2, 2004 as evidence of inconsistent application of the canopy policy. Also, the request for a canopy was dated July 22, 2003, which is 5 days after the canopy policy was created, showing additional inconsistency by the Wetlands Bureau.
18. The appellant proposes that one 27 ft x 18 ft seasonal canopy is less impacting than two 25 ft x 14 ft canopies with two legally existing boatslips.

Findings of Fact

19. On February 3, 2004, the Wetlands Bureau issued a denial of an application for surface water impacts, on the property identified as Gilford tax Map 252, Lot 2, for the installation of a seasonal canopy over a previously permitted boatslip.
20. The applicant has submitted a timely request for reconsideration, received by the Wetlands Bureau on February 23, 2004.
21. State and Federal agencies have authority to create policy decisions within the scope of the law. No rule making is necessary for a policy decision.
22. Each of the permits cited by the appellant was issued to applications received prior to the issuance of the July 2003 canopy policy memo, and therefore they can no longer be considered valid precedent.
23. The Wetlands Bureau originally reviewed an application for a canopy as a modification of an existing structure. By recognizing the need for fairness, the department changed this policy, allowing a canopy application to be submitted as a Minimum Impact Application provided the applicant conforms to the required canopy policy standards.
24. Individual canopies have little environmental impact. However, taken in the aggregate, larger canopies consistently cover larger boats which significantly increase impacts associated with the waterbody. Therefore, the appellant incorrectly presumes that this project will not increase impacts associated with the public trust.
25. A boat tarp is far less impacting than a canopy and protects the boat from sun, rain and animal damage. Therefore, the appellant incorrectly presumes that added length is necessary to properly protect a boat from the elements.
26. An administrative rule regulating canopy size is unnecessary since a canopy policy was expressly created in writing by a fully authorized agency to regulate canopy size, and is now a lawful requirement of all proposed canopy applications.
27. No public comment or rule making procedures are necessary for a legally recognized agency policy.
28. The Wetlands Bureau has been consistent in its application of the canopy policy since its implementation on July 17, 2003. All canopies permitted after July 17, 2003 that exceeded 25 ft in length were from applications received prior to the issuance of the canopy policy. The request to amend permit No. 1999-02071 to allow a 37 ft canopy was received prior to the issuance of the canopy policy.
29. The appellant correctly states that one 27 ft x 18 ft canopy is less impacting than two 25 ft x 14 ft canopies providing two legally existing boatslips.

Rulings in Support of the Decision

30. The appellant has failed to provide new or additional evidence that the Wetlands Bureau has been inconsistent in its application of the 25 ft canopy policy since its implementation on July 17, 2003.
31. The appellant has failed to design a canopy that minimizes and avoids impacts as required per Rule 302.03, and reconsideration is therefore denied.

2003-02022 BURNETT, MICHAEL
NORTH HAMPTON Little River

Requested Action:

Amend permit to read: impact 1,560 square feet of developed upland tidal buffer zone for the removal and reconstruction of an existing single-family residence and associated decks, and for the construction of a stone retaining wall measuring approximately 130 linear feet.

Inspection Date: 10/15/2003 by Christina Altimari

APPROVE AMENDMENT:

Amend permit to read: impact 1,560 square feet of developed upland tidal buffer zone for the removal and reconstruction of an existing single-family residence and associated decks, and for the construction of a stone retaining wall measuring approximately 130 linear feet.

With Conditions:

AMENDED CONDITION: 1. All work shall be in accordance with plans by NH Soil Consultants, Inc. dated May 1994, with revisions by Michael Burnett dated March 30, 2004, as received by the Department on March 31, 2004.

2003-02381 PELLETIER, HERMAN/PEARL
MILTON Tributary To Town House Pond

Requested Action:

Approve name change to: Steve Miller, 95 Blackwater Rd., Rochester NH 03867 per request received 4/14/04

Conservation Commission/Staff Comments:

The conservation commission did not comment on this application.

APPROVE NAME CHANGE:

Dredge and fill a total of 2441 square feet of wetland and install two 36-inch culverts in an intermittent stream for the construction of two driveways to access two proposed building lots in the subdivision of 28.45 acres into three lots.

With Conditions:

1. All work shall be in accordance with plans by Berry Engineering and Surveying dated September 3, 2003, as received by the Department on October 22, 2003.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback on lots 27-1 and 27-2.
3. The deed which accompanies the sales transaction for lots 27-1, and 27-2 in this subdivision shall contain condition # 2 of this approval.
4. This permit is contingent on approval by the DES Subsurface Systems Bureau.
5. Work shall be done during no flow.
6. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
7. Discharge from dewatering of work areas shall be to sediment basins that are: a) located in uplands; b) lined with hay bales or other acceptable sediment trapping liners; c) set back as far as possible from wetlands and surface waters, in all cases with a minimum of 20 feet of undisturbed vegetated buffer.
8. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
9. Proper headwalls shall be constructed within seven days of culvert installation.
10. Culvert inverts shall be laid at existing grade.
11. Culvert outlets shall be appropriately rip-rapped in accordance with The Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and

Developing Areas in New Hampshire (August, 1992).

12. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

13. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This permit transfer is issued in accordance with NH Administrative Rule Wt 502.03(b).

2004-00141 BEAGAN, MARTHA
CLAREMONT Unnamed Wetland

Requested Action:

Dredge and fill 2,850 square feet of palustrine scrub shrub wetlands to construct a multi-family housing complex

Conservation Commission/Staff Comments:

Conservation Commission did not sign the expedited application, requested a site inspection. The file will be reviewed as a standard application. Applicant notified by mail February 23, 2004.

Inspection Date: 04/16/2004 by Jeffrey D Blecharczyk

APPROVE PERMIT:

Dredge and fill 2,850 square feet of palustrine scrub shrub wetlands to construct a multi-family housing complex

With Conditions:

1. All work shall be in accordance with plans by SVE Associates; Sheet C-2 dated March 11, 2004, as received by the Department on March 17, 2004.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
3. All scrap metal and waste debris on site shall be properly disposed of in accordance with local and state requirements.
4. Work shall be done during low flow.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
7. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
8. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f), alteration of less than 3,000 sq ft of nontidal jurisdictional wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. The Claremont Conservation Commission did not sign the expedited application and requested a site inspection.
6. DES personnel conducted a site inspection on April 16, 2004, and determined the project will not have a negative impact on the

environment as proposed.

7. There are abandoned old cars, scrap metal, and remains of a wooden structure on the property. Additional evidence would suggest the site was filled at some point in the past. The abutting lot to the north is lower than this site.
8. The development of this lot will require the removal of the waste debris, and therefore remove a potential hazard in the area.

2004-00236 RIFF IV, JOHN & STEPHENIE
LANCASTER Unnamed Wetland

Requested Action:

Dredge and Fill 800 square feet of wet meadow to construct a residential building foundation on a 0.77 acre lot

Conservation Commission/Staff Comments:

Lancaster Conservation Commission signed the Application

APPROVE PERMIT:

Dredge and Fill 800 square feet of wet meadow to construct a residential building foundation on a 0.77 acre lot

With Conditions:

1. All work shall be in accordance with plans by Watershed To Wildlife, Inc. dated January 30, 2004, as received by the Department on February 13 2004.
2. There shall be no further alteration of wetlands .
3. Dredged material shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
4. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
5. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
6. Any further alteration of areas on this property that are within the jurisdiction of the DES Wetlands Bureau will require a new application and further permitting by the Bureau.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f), alteration of less than 3,000 sq. ft. of jurisdictional wetland.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

2004-00318 FERESHETIAN, STEVEN
LACONIA Unnamed Wetland

Requested Action:

Restore 120 square feet of jurisdictional wetland and dredge and fill a total of 2976 square feet of forested wetland including installation of a 15-inch x 42 foot culvert for access in the subdivision of 16.5 acres into 6 residential lots.

Conservation Commission/Staff Comments:

Laconia Conservation Commission noted unpermitted impacts within the wetland and the City's upland buffer.

APPROVE PERMIT:

Restore 120 square feet of jurisdictional wetland and dredge and fill a total of 2976 square feet of forested wetland including

installation of a 15-inch x 42 foot culvert for access in the subdivision of 16.5 acres into 6 residential lots.

With Conditions:

1. All work shall be in accordance with plans by Steven J Smith and Associates dated January 29, 2003, and revised through April 2, 2003 as received by the Department on February 27, 2004 and restoration plans by Steven J Smith and Associates, as received by the Department on April 2, 2004.
2. This permit is contingent on approval by the DES Subsurface Systems Bureau.
3. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
4. The deed which accompanies the sales transaction for each of the lots in this subdivision shall contain condition #3 of this approval.
5. This permit shall not be effective until it has been recorded with the Registry of Deeds Office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau.
6. Orange construction fencing shall be placed at the limits of construction to prevent accidental encroachment on wetlands.
7. Work shall be done during low flow.
8. Appropriate siltation/erosion controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.
9. All material removed during restoration activities shall be removed down to the level of the original hydric soils.
10. All material removed during restoration activities shall be placed out of DES's jurisdiction.
11. Mulch within the restoration area shall be straw.
12. Seed mix within the restoration area shall be a wetland seed mix appropriate to the area and shall be applied in accordance with manufacturers specifications. The receipt and contents of the wetland mix shall be supplied to NHDES within 10 days of application.
13. Within three days of final grading in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.
14. Where construction activities have been temporarily suspended within the growing season, all exposed soil areas shall be stabilized within 14 days by seeding and mulching.
15. Where construction activities have been temporarily suspended outside the growing season, all exposed areas shall be stabilized within 14 days by mulching and tack. Slopes steeper than 3:1 shall be stabilized by matting and pinning.
16. Silt fencing must be removed once the area is stabilized.
17. The contractor responsible for completion of the work shall utilize techniques described in the DES Best Management Practices for Urban Stormwater Runoff Manual (January, 1996) and the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire (August, 1992).
18. A post-construction report documenting the status of the restored jurisdictional area, including photographs shall be submitted to the Wetlands Bureau within 60 days of the completion of construction.

With Findings:

1. This is a minor impact project per Administrative Rule Wt 303.03(h), projects involving less than 20,000 square feet of alteration in the aggregate in nontidal wetlands, nontidal surface waters, or banks adjacent to nontidal surface waters which exceed the criteria of Wt 303.04(f).
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. The applicant will restore unpermitted fill adjacent to the crossing.

FORESTRY NOTIFICATION

2004-00453 THOMSON, STACEY
ORFORD Unnamed Stream

COMPLETE NOTIFICATION:
Orford Tax Map 8-93, Lot# 24

2004-00599 WHILE, LINDA & JAY KINGSBURY
GILMANTON Unnamed Stream

COMPLETE NOTIFICATION:
Gilmanton Tax Map 40, Lot# 27 Parcel 288

2004-00600 STORY, ELMER
WARNER Unnamed Stream

COMPLETE NOTIFICATION:
Warner Tax Map 10, Lot# 74

2004-00601 FISKE, TIMOTHY
TEMPLE Unnamed Stream

COMPLETE NOTIFICATION:
Temple Tax Map 6, Lot# 61

2004-00602 LANDRY, ARTHUR & CAROL
CANTERBURY Unnamed Stream

COMPLETE NOTIFICATION:
Canterbury Tax Map 21, Lot# 14

EXPEDITED MINIMUM

2003-02590 SUNDSTROM, DAVID & CASSIE
MARLBOROUGH Unnamed Wetland

Requested Action:
Install an 18" x 20' culvert with associated fill impacting 250 square feet of a seasonal stream to provide access to one lot of a 3-Lot subdivision

APPROVE PERMIT:
Install an 18" x 20' culvert with associated fill impacting 250 square feet of a seasonal stream to provide access to lot 80-A-3 of a 3-Lot subdivision

With Conditions:

1. All work shall be in accordance with plans by Carl Hagstrom, site plan dated October 23, 2003, as received by the Department on November 17, 2003 and Subdivision Plan received by the Department on March 18, 2004.
2. There shall be no further alteration of wetlands for lot development, driveways, culverts, or for septic setback.
3. Work shall be done during low flow.
4. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
5. Work authorized shall be carried out such that discharges shall be avoided in spawning or nursery areas during spawning seasons, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
6. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding and nesting areas shall be avoided.
7. Within three days of final grading or temporary suspension of work in an area that is in or adjacent to wetlands or surface waters, all exposed soil areas shall be stabilized by seeding and mulching during the growing season, or if not within the growing season, by mulching with tack or netting and pinning on slopes steeper than 3:1.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(f), alteration of less than 3,000 sq ft of nontidal jurisdictional wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.

2004-00336 **BELLMARE, CHRIS**
NEWINGTON Little Bay

Requested Action:

Impact 452 square feet of developed upland tidal buffer zone for the enclosure of an existing deck. Work will also be done to reside an existing shed within the tidal buffer zone and abutting a tidal creek, with no change in the shed's dimensions or footprint, or work in the water.

APPROVE PERMIT:

Impact 452 square feet of developed upland tidal buffer zone for the enclosure of an existing deck. Work will also be done to reside an existing shed within the tidal buffer zone and abutting a tidal creek, with no change in the shed's dimensions or footprint, or work in the water.

With Conditions:

1. All work shall be in accordance with plans by Doucet Survey dated 2004, as received by the Department on March 3, 2004.
2. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
3. Coastal staff shall be notified in writing prior to commencement of work and upon its completion.
4. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).
5. Appropriate siltation, erosion, and turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized.
6. Work done to reside the existing shed shall take place above the shoreline and shall not encroach in to the tidal waters.
7. Nylon mesh traps shall be used to contain materials removed from the shed.

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(b), projects in previously developed upland areas within 100 feet of the highest observable tide line.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.

3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.

2004-00357

STONE POND BOATHOUSE LLC, JAMES WHITCOMB

MARLBOROUGH Stone Pond

Requested Action:

Repair and replace an existing 18 ft x 29 ft boathouse in-kind, permanently remove an existing 4 ft x 18 ft 6 in canoe shed attached to the existing boathouse and replace with a deck 4 ft x 18 ft deck in the same footprint, and excavate 112 sq ft to construct a 7 ft x 16 ft perched beach, utilizing 10 cu yds of sand, surrounded by cedar logs, with 4 ft wide steps accessing the water on an average of 382 ft of frontage on Stone Pond, Marlborough.

Conservation Commission/Staff Comments:

Con. Com. signed application.

APPROVE PERMIT:

Repair and replace an existing 18 ft x 29 ft boathouse in-kind, permanently remove an existing 4 ft x 18 ft 6 in canoe shed attached to the existing boathouse and replace with a deck 4 ft x 18 ft deck in the same footprint, and excavate 112 sq ft to construct a 7 ft x 16 ft perched beach, utilizing 10 cu yds of sand, surrounded by cedar logs, with 4 ft wide steps accessing the water on an average of 382 ft of frontage on Stone Pond, Marlborough.

With Conditions:

1. All work shall be in accordance with plans by Edward C. Goodrich, Jr. dated November 20, 2001, as received by the Department on March 5, 2004.
2. This permit shall not be effective until it has been recorded with the county Registry of Deeds office by the Permittee. A copy of the registered permit shall be submitted to the DES Wetlands Bureau prior to construction.
3. Appropriate siltation/erosion/turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.
4. Any future work on this property that is within the jurisdiction of the DES Wetlands Bureau as specified in RSA 482-A will require a new application and approval by the Bureau.
5. Work authorized shall be carried out such that discharges shall be avoided in spawning or nursery areas during spawning seasons, and impacts to such areas shall be avoided or minimized to the maximum extent practicable during all times of the year.
6. Work shall be carried out in a time and manner such that disturbance to migratory waterfowl breeding and nesting areas shall be avoided.
7. The boathouse shall be a single-story structure; ridgeline not to exceed 19 ft in height.
8. All dredged and excavated material and construction related debris shall be placed outside of the areas under the jurisdiction of the DES Wetlands Bureau.
9. Repair shall maintain existing size, location and configuration.
10. Logs placed along the beach front for the purpose of retaining sand shall be placed above and/or landward of the normal high water line. Those rocks existing at the normal high water line shall remain otherwise undisturbed such that the natural shoreline remains identifiable.
11. The steps installed for access to the water shall be located completely landward of the normal high water line.
12. No more than 10 cu. yds. of sand may be used and all sand shall be located above the normal high water line.
13. This permit shall be used only once, and does not allow for annual beach replenishment.
14. The permittee shall provide appropriate diversion of surface water runoff to prevent erosion of beach area.
15. Revegetation of trees, shrubs and ground covers representing the density and species diversity of the existing stand of vegetation removed for this project shall begin at a distance no greater than 5 feet landward from the beach area.
16. The canoe shed shall be replaced with a deck in the same footprint. No expansion outside the footprint.
17. This permit shall not preclude the Department of Environmental Services (DES) from taking any enforcement action or revocation action if the DES later determines that these "existing structures" were not previously permitted or grandfathered.
18. All activity shall be in accordance with the Comprehensive Shoreland Protection Act, RSA 483-B (see attached fact sheet).

With Findings:

1. This is a minimum impact project per Administrative Rule Wt 303.04(v)&(d), repair of existing structures with no change in size, location or configuration, and construction of a perched beach.
2. The need for the proposed impacts has been demonstrated by the applicant per Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Wt 302.04(b) Requirements for Application Evaluation, has been considered in the design of the project.
5. The applicant has demonstrated that the removal of the canoe storage shed and replacement of a deck in the same footprint is more conforming to the intent of RSA 483-B.

GOLD DREDGE

2004-00598 GILCREAST, MERVYN
(ALL TOWNS) Unnamed Stream

Conservation Commission/Staff Comments:
Bath ConCom

2004-00629 SAWYER, JOHN
(ALL TOWNS) Unnamed Stream

Conservation Commission/Staff Comments:
Bath ConCom

2004-00630 MATHESON, FREDERICK
(ALL TOWNS) Unnamed Stream

Conservation Commission/Staff Comments:
Bath ConCom

LAKES-SEASONAL DOCK NOTIF

2004-00596 SHELLY, JOHN & LINDA
LACONIA Lake Opechee

COMPLETE NOTIFICATION:
Laconia Tax Map 353, Lot# 6 Lake Opechee

2004-00597 WESTON, RONALD
CENTER BARNSTEAD Upper Suncook Lake

COMPLETE NOTIFICATION:
Ctr Barnstead Tax Map 32, Lot# 28 Upper Suncook Lake

2004-00625 MAYO, JENNIFER
MEREDITH Lake Winnepesaukee

COMPLETE NOTIFICATION:
meredith Tax Map I09, Lot# 8A lake winnipesaukee

2004-00626 SCHENK, EVERET & MARGARTA
MOULTONBOROUGH Lake Winnepesaukee

COMPLETE NOTIFICATION:
Moultonboro Tax Map 6, Lot # 4 Lake Winnepesaukee

2004-00627 ST AMAND, JOHN
MOULTONBOROUGH Lake Winnepesaukee

COMPLETE NOTIFICATION:
Moultonboro Tax MAp 19, Lot# 27 Lake Winnepesaukee

2004-00628 SEARS, KATHERINE
SUNAPEE Perkins Pond

COMPLETE NOTIFICATION:
Sunapee Tax Map 20, Lot# 9 Perkins Pond

PERMIT BY NOTIFICATION

2004-00500 M.E.M.A REALITY TRUST, MICHAEL A. GARCEAU TRUSTEE
WOLFEBORO Lake Winnepesaukee

Requested Action:
PBN #10, Seasonal PWC lift

Conservation Commission/Staff Comments:
Wolfeporo Conservation Commission did not sign the PBN

PBN IS COMPLETE:
PBN #10, Seasonal PWC lift

2004-00518 PHOENIX REALTY REVOC TRUST, ARTHUR RANDLETT
NEWMARKET Drainage Ditch

Requested Action:

PBN #2, 217 sq.ft. of impact to emergent wetlands.

Conservation Commission/Staff Comments:

Newmarket Conservation Commission sign the PBN form.

PBN IS COMPLETE:

PBN #2, 217 sq.ft. of impact to emergent wetlands.

2004-00520 FLETCHER, ROBERT & SUZANNE
NORTHWOOD Unnamed Stream

Requested Action:

PBN #1, 1,368 sq. ft. of impact to forested wetland.

Conservation Commission/Staff Comments:

Northwood Conservation Commission signed the PBN form

APPROVE PERMIT:

PBN #1, 1,368 sq. ft. of impact to forested wetland.

2004-00614 HOBAN FAMILY PARTNERSHIP
ALTON Lake Winnepesaukee

Requested Action:

PBN #9, no wetland impact

Conservation Commission/Staff Comments:

Alton Conservation Comission sign the PBN form

PBN IS COMPLETE:

PBN #9, no wetland impact